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SUPERIOR COURT OF JUSTICE

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E X H I B I T S

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FRIDAY, OCTOBER 7, 2011

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THE COURT: The matter of Joanne St. Lewis and Denis Rancourt.

MR. RANCOURT: Your Honour, could I get some clarifications about scheduling before we start?

THE COURT: Yes.

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MR. RANCOURT: There - I was served two days ago with a third motion - with another motion, so I'm not clear if there are two motions to be heard today or just one.

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THE COURT: Just a minute, Mr. Rancourt. The reporter wants to know your name, it's Denis Rancourt, R-A-N-C-O-U-R-T. Am I pronouncing your name correctly?

MR. RANCOURT: I - that's fine.

THE COURT: What do you prefer?

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MR. RANCOURT: Rancourt.

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THE COURT: Rancourt. Okay. So let's - let's try to crystallize what - what we're going to do today.

I've read the material. Mr. Dearden has a motion to appoint Mr. Chadwick or Mr. Mullington as a man - as a mediator to - to look at the - the defamation issue and try to resolve it. You're opposing that on the basis that you don't feel that - Chadwick is - Chadwick is too expensive, I don't know what your position is on Mullington. And - but in support of that, Mr. Rancourt, you - you've filed affidavits.

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All right. And specifically in the affidavits raised issues that were - that were appropriate upon

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which to cross-examine you. Cross-examination proceeded. Certain questions were refused to be answered. Yesterday, over the course of almost an entire day, you appeared before case management Master McLeod and he made - he gave a decision requiring that certain answers be made. There's one exception and that's the - communications with - communications with Law Help. And my question to you is very simple, in that he's ordered that those questions be answered and that they stem from your affidavit evidence in - in support of opposing the main motion, how can we hear the main motion today? That's my question. Yes.

MR. RANCOURT: I would like to answer as follows. I'm self defended and my understanding of the rules of procedure and of case law and so on is evolving as time goes by and as I study these questions, and I have - want to - I would like to present arguments that the original motion should be quashed irrespective of all of these answers and these issues and I - because I believe there - the reasons for quashing the original motion are very strong and unambiguous, the rules of procedure are being broken, the - there - I have - I have several arguments here that I would like to present. I am - I would like to argue that - for example, the questions in the matter related to the cross-examination were related to things such as the independence of the witness, the expertise of the witness, my assets and so on, and I would argue that this motion can be quashed even if my - Doctor Lamontagne, the affiant was a...taking orders from

me and even if I was a millionaire, and even if he had no expertise at all, in all of the cases it wouldn't make any difference in terms of the arguments that I would like to present today as to why this motion is untenable at law. In terms - and I have three arguments in that direction. And I believe that they're prima facie in a sense that they - you don't need all of that cross-examination evidence in order to clearly see, I believe, that this motion is not tenable. So it contradicts - on its main points, on its main request, it contradicts...

MR. DEARDEN: Excuse-me, Mr. Rancourt. Excuse-me, Mr. Rancourt. Your Honour....

MR. RANCOURT: I'm being interrupted, Your Honour.

THE COURT: Yes, you're launching to the main motion is I think is - so Mr. Rancourt, let me just hear from Mr. Dearden on the basis of whether, in his view, the main motion can be heard today, because that's - that's really what's before me at this point. That's the issue I have to decide. You want to argue the main motion, you say it's - it doesn't matter what happened with case management Master McLeod, whether - it doesn't matter, et cetera, so - obviously there's some dispute as to whether that - the main motion can be argued. So let's hear from Mr. Dearden, because it is his application to have it adjourned. So - and then you'll get your opportunity to reply, okay.

MR. RANCOURT: Yes. I....

MR. DEARDEN: Your Honour, I handed a compendium to Madam Registrar. I'm not sure if that was breaking news.

THE COURT: Your Honour....

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MR. DEARDEN: Your Honour, if you turn to tab 13 of the compendium you have the contested motion confirmation form which sets out the two matters that are before the Court this morning. The first is the fact that this is a contested adjournment and then secondly I have filed on short notice a motion to strike out a notice of examination that the defendant served on the plaintiff to attend for discovery notwithstanding that the mandatory mediation motion is all about holding a mandatory mediation prior to exchange of affidavit of documents and of having examinations for discovery, but if you would permit me, Your Honour, to just give you a three minute backdrop as to how we are here today and then I will address the adjournment and I will also address why there should be no argument about - it's really like a motion to strike that he's - he's - Mr. Rancourt is submitting the Court should hear today and I submit this is completely improper, there's nothing before the Court - because the only thing he's filed that raised these new issues, which I got last week, was within Master McLeod's refusal's motion, there's nothing before this Court on the main motion to - to argue that I've violated the rules and all these other things that he wants to address you. But let me first give you the backdrop as to how we got here in three units.

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Professor St. Lewis, who is with us today, sitting here in the first row, is a professor at the University of Ottawa's Common Law faculty and her life work is dedicated to the promotion of the quality rights including racial equality. The defendant Mr. Rancourt is a former physics prof at University of Ottawa who the university terminated, amongst other reasons, because he told his students that he was going to give them all A+ at the first of the year and he's in a labour grievance over that termination now. He also, as you'll see at tab three of the compendium in his Facebook page, describes himself as an anarchist and what he's done on his blog, has published a number of defamatory statements about Professor St. Lewis, one of which is that Professor St. Lewis is the house negro of Allan Rock, the president of the University of Ottawa, and a number of other things that I'm not going to waste time with because we have limited time today, but they're the most egregious defamatory statements that I've seen in my 32 years of practice in the area.

So when I read his statement of defence and realized that I'm dealing with a self represented anarchist, I decided that we needed mandatory mediation to settle this or at least attempt to try to settle this action as soon as we can and it had to be before a skilled mediator and somebody that had knowledge of liable law, and that's why I asked for Former Regional Senior Justice Chadwick to be that

mediator. If that doesn't happen, if it doesn't settle my position on the argument of the mandatory mediation motion is going to be - this action is going to devour an enormous amount of the precious Court time to hear things, and yesterday, before Master McLeod, was the poster child of how long and how much Court resources are going to be eaten up with this self represented defendant. The confirmation yesterday, Your Honour, as an aside, I said I could deal within 30 minutes, I did it in 20 minutes, we started at 11:30, we walked out at 10 after five. All of the other time used by the defendant and the Master trying to explain to him how procedures worked and et cetera, et cetera. So that's all I'm asking for is a mandatory mediation. I asked Mr. Rancourt if he agreed....

THE COURT: Do you have the - just query, Mr. Dearden, do you have the right to name the mediator though?

MR. DEARDEN: I - the - in my - there is a rule and I know there is a rule that says that the parties have to consent, my position is going to be there can be inherent jurisdiction of the Court to appoint somebody who is skilled and knowledgeable in the area of law in that particular case. But it may not be - and you know, that actually - I mean to me that is the best choice possible in this city, but it doesn't have to be and it's not - it's not a motion breaker if you will. It's get - it's getting a mandatory mediation held.

THE COURT: But as I understood, just reading Mr. Rancourt's motion record, he's in favour of

mandatory mediation; he just doesn't want to have to pay for Mr. Chadwick.

MR. DEARDEN: No. No, no, he's not in favour of mandatory mediation before he examines my client.

THE COURT: I see.

MR. DEARDEN: And I don't want that to happen, she doesn't want that to happen, I want it dealt with now, because if we do that, Your Honour...

THE COURT: Okay.

MR. DEARDEN: ...I know - I know....

THE COURT: All right. So in other words, he'll take mediation but after he has his trial sort of?

MR. DEARDEN: Yes.

THE COURT: Yes.

MR. DEARDEN: Now, he has a cost issue too, he wants to do everything for free and he's - he wants a Law Help mediator to do this for free and that won't be the type of mediator, in my submission, that should actually be mediating this because it's going to be a tough mediation. But at any rate, that's where we are. I asked him, he's refused, so we filed on August 18th, Your Honour, a notice of motion that you'll see at tab four of the compendium. And that's the mandatory mediation motion, and you'll see - you'll see relief in the first paragraph is that we have the mandatory mediation prior to the exchange of affidavits and the conduct of examinations for discovery. And that was returnable on September the 2nd, Your Honour. And in opposition to that motion, Mr. Rancourt served two affidavits he swore on August 25th, so he - he swore two affidavits, August 25th and 26th and Mr.

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Lamontagne, another prof at U of O swore an affidavit on August 26th and so I advised Mr. Rancourt at tab five that I had a right to cross-examine and that we had to adjourn the September 2nd hearing day. So if you turn to tab five of the compendium, Your Honour...

THE COURT: Yes.

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MR. DEARDEN: ...you'll see at the bottom, August 30th, 2011, at 3:27 I say to Mr. Rancourt,

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"We have a right to cross-examine you and Professor Lamontagne and that is why September motion - 2nd motion needs to be adjourned. Please confirm you're not contesting the adjournment so that we can conduct cross-examinations next week."

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Now, here - right above that his reply at 3:41 p.m. that day is,

"I am not contesting an adjournment of the motion so that we can conduct cross-examinations."

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And those cross-examinations are obviously not over, Your Honour, because Master McLeod has ordered to read attendance on October the 14th. So I - in the - just finishing that tab five, I informed Mr. Rancourt that we will inform the motion coordinator the adjournment is not contested, so it got adjourned from September the 2nd to today. Okay.

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September the 6th is when we held cross-examinations, Your Honour, there were numerous refusals and we brought the refusals motion that you

see at tab six of the compendium, so that was what Master McLeod dealt with yesterday.

MR. RANCOURT: Excuse-me, we have a ruling that's fairly consistent that pretty well summarizes what happened with regards to the cross-examinations and so on, and I wonder if all of this background is necessary.

MR. DEARDEN: It's absolutely necessary, Your Honour, because it's - this is the setup as to why there should not have been a refusal to adjourn today's proceeding.

THE COURT: I think what it's really coming down to, Mr. Rancourt, is whether you should have simply agreed that the main motion be adjourned pending the completion of the cross-examinations, to which you originally agreed, now that Master McLeod has ordered that answers be given. So I think that - and really, maybe it involves costs against you for not - for not agreeing to having today's motion adjourned, am I correct? Yes.

MR. DEARDEN: I'm going to seek those and I warned him and in tab five I warned him,

"In the event you oppose an adjournment of the motion, I'm putting you on notice that I will be seeking costs on a substantial indemnity basis payable forthwith."

He gave - he told me he's not contesting the adjournment so we can conduct cross-examinations, he told me that on August 30th and today he resiles from that non-contestment [sic], and I - I don't get it myself, but anyway - to finish the background

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here, how we got here, so we filed the notice of motion - the refusal's motion which is at tab six, and tab eight we've included Master McLeod's decision, Your Honour, of yesterday where if you look at the last page, paragraph 25, Mr. Rancourt has to produce - Mr. Rancourt and Mr. Lamontagne have to produce all documents or copies of documents that are to be answered by October 11th, so that's next Tuesday and then next Friday we - we conduct the cross-examinations of both of them on the re-attendance that's been ordered.

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And tab nine, Your Honour, in terms of dealing with just the adjournment because this - this - just the adjournment part as opposed to setting aside the notice of examination for discovery as an abuse, at tab nine, September 28th at 10:38 I - I said,

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"The motion to compel you and Professor Lamontagne to answer questions asked during your cross is scheduled for October 6th. As a result, it will not be possible to argue the October 7th motion to compel you to attend a mandatory mediation prior to the exchange of affidavits of documents and the conduct of examinations for discovery. The October 7th motion must be adjourned and the earliest date available is December 7th, please inform me whether you consent to the adjournment."

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And it's actually - I made a typo there, it was December 1st, which - which is what the contested adjournment seeks is December 1st. So I asked him to inform me if he consents.

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Tab 10, first of all you'll see - if you look at tab 10, Your Honour, I'm going to take you to parts of pages one and two of this email string. At the bottom of the page Mr. - or actually go to page two if you could in tab 10 of the compendium. There's an email from Mr. Rancourt, September 28th, at 11:11, it says - when I ask him if he consents to adjourning the October 7th motion, he says,

"There is no motion scheduled for October 7th, please clarify."

Above that you see I say,

"The main motion regarding the mandatory mediation was adjourned, with your consent, to October 7th."

Which is the tab we just looked at. He comes back to me on - 11:59, says,

"I'm in error; I never consented to an October 7th date. I also never informed about an October 7th motion hearing date. Please verify your records. You will be able to confirm I was never made aware of the October 7th motion hearing date."

Which is completely wrong. Mr. Rancourt, can you sit down, please? Thanks. So I write him and give him the history we had of the adjournment to October 7th, so we point out on the first page of tab 10, Your Honour, that on August 30th at 3:27 I wrote what's there. Then I say in the second paragraph,

"You replied by stating "I'm not contesting an adjournment of the motion so that we can conduct cross-examinations."

5 And then I replied on August 30th, 3:58, that we will inform the motion coordinator, which we did, and this was set down for today. The fourth paragraph in my email of September the 28th at tab 10 in the compendium I say,

10 "We are adjourning our motion to obtain an order for mandatory mediation to December 1st, which is the first available date, do you consent?"

15 Tab 11 - tab 11 - tab 11 is - is actually the notice of examinations, tab 12 I meant to take you to, Your Honour. Tab 11 - 12, September 28th, Mr. Rancourt writes me and says in paragraph six,

20 "I don't agree to an adjournment of the October 7th motion since it's possible that it can be ruled upon depending on the results of the October 6th refusal's motion or independent of the results of October 6th."

25 Your Honour, the cross-examinations, as you noted, are not completed. He consented to an adjournment so we could conduct cross-examinations. It was the refusals that delayed the hearing of the mandatory mediation, because we had to bring the motion that was heard yesterday. The plaintiff Professor St. Lewis is entitled to a complete evidentiary record on the opposition that Mr. Rancourt has put in
30 through those three affidavits that are still subject to cross-examination. And not only that but

5 that - as of last week, he was proclaiming he wasn't even aware of the October 7th hearing today, but yet he insists that we should proceed today when last week he wasn't even aware of it and he was resisting that there was going to be anything heard today. But he is resiling on saying we're going to adjourn and that's not the main reason why I'm arguing there has to be an adjournment. The main reason is the evidence isn't in yet, the supplementary record would have to be filed and that hasn't obviously been done and nor have we prepared a factum on this mandatory mediation yet because the evidence isn't complete yet. So that's where we are on that, Your Honour.

15 Mr. Rancourt wants you to nevertheless rule today that there's a fatal flaw in the motion, in the mandatory mediation motion, but as I said at the outset, he hasn't filed any separate motion to cut out a hearing on the full evidence of the mandatory mediation and short circuit it somehow. He hasn't done that. What he - the first time I saw that was when he filed this two inch document with Master McLeod to oppose the refusal's motion; that's where it comes up in, but it doesn't come up in the main mandatory mediation motion as a separate motion that I would cross-examine on some of the things that he has in that brick there that he used to oppose the refusal's motion. So that's not even before the Court. But as I said....

MR. RANCOURT: I object, Your Honour. That characterization of it not being before the Court is incorrect. The....

5 THE COURT: You'll have your opportunity to respond, Mr. Rancourt, as soon as Mr. Dearden has completed his submissions.

10 MR. DEARDEN: I meant in terms of separate motion that would be heard to - to ask the Court - to ask this Court, as opposed to what's before the Master on a refusal's motion, to not even bother having a full record and to not even worry about the continued cross-examinations that have been ordered by Master McLeod. He doesn't have that as a motion before the Court. He's just asking you to do it today. And I'm not ready to argue that. I'm not ready to argue that. I haven't cross-examined him on the affidavit he filed dealing with those issues because they were filed in a refusal's motion. So there's nothing separate before you, which in my submission, has to be before you, Your Honour and that - and to sum up on that issue, I submit the Court should have a full record; that hasn't been completed yet and a supplementary record is obviously required, and a factum is required as well, and we're not there. So we've asked that - that the - today's matter be adjourned because of the refusals that we got on September the 6th. Today could have proceeded if we got the answers that we wanted on September 6th, but that didn't happen, we didn't cause that delay and therefore, we submit it should be adjourned.

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Now, after you deal with that, Your Honour, I do have submissions on the notice to set aside the notice of examination for discovery, but that's a separate motion.

THE COURT: Okay.

MR. DEARDEN: Thank you.

THE COURT: Mr. Rancourt, I want to hear you only on the issue of the adjournment, I don't want - and I don't want you to argue the main motion here; it's not what's going to happen. Why are you opposing the adjournment given the fact that Master McLeod has ordered you to answer questions, based on the affidavits filed?

MR. RANCOURT: Yes, Your Honour. As I stated earlier, my understanding of the case and of the law and of the rules of procedure is increasing every day and so my management of my defence is changing as we go, and I feel like I'm under a lot of pressure, things are happening very quickly, so that is the reason that some of this confusion has occurred, for example, with regards to the motion date, it was not in an email, it was in an attached document, which I didn't look at and write in my agenda at the time and it caused some confusion and so on. So things like that are accidents and are bound to happen sometimes.

With - am I - would it be appropriate for me to comment on Mr. Dearden's backdrop of the case, because I do object to how I was described.

THE COURT: Yes, of course. You're responding to his submissions as to how you came to today, how he

cannot comprehend why you would not consent to this being adjourned, given that you filed affidavits, you were being cross-examined, you've refused to answer certain questions and Master McLeod has ordered that they be answered, and therefore, this motion must be adjourned pending the completion of that examination. So you can answer those submissions.

MR. RANCOURT: I will try to target that and leave aside the anarchism comment. In my original motion record, in response to the first motion, I did explicitly argue that this motion should be ruled out on the basis that rules were being broken, rules of procedure were being broken and on the basis that it was improperly being used as a proxy for a motion for interim injunction in a defamation lawsuit. And I - and other arguments as well. The majority of my arguments were in the original response to the original motion. I have now sharpened them and I think I would be able to present them succinctly and so I'm asking to be allowed to do that.

Now, the - the arguments that I want to present in order for this motion to be quashed are not based on evidence, they're simply based on the rules and case law and what is being asked in the original motion precisely and how it's inconsistent with the rules and case law. It is not about the evidence. That's what I would like to present today.

THE COURT: But that's - no, what you want to do - what you're telling me is you want to argue the main motion. You want this Court to declare that Mr.

Dearden's motion to have mandatory mediation should be dismissed?

MR. RANCOURT: Yes.

THE COURT: That's - and I'm saying that can't be done until the full record is before the Court. The full record would include the cross-examinations of the affidavits you filed in response to that very motion.

MR. RANCOURT: But....

THE COURT: I mean - that's....

MR. RANCOURT: Yes.

THE COURT: That's the proceeding.

MR. RANCOURT: Yes.

THE COURT: You can't just - you can't just say "Well, you know, this is getting pretty damn complex and really all I want is a hearing, so let's have a hearing." That's not the way things work. You have to have a full record, based upon the pleadings, the - the nature of the notice of motion, the nature of the - of the relief that's being sought and....

MR. RANCOURT: Your Honour....

THE COURT: You know, it's not - you're not going to Carnac [ph] you know, just - it kind of gives you the answer without not the question.

MR. RANCOURT: I understand, Your Honour.

THE COURT: Yes.

MR. RANCOURT: My idea is that the Court - one of the main goals of the Court is to be efficient and to save costs, and I believe that the - if I can make these arguments about the un-tenability of the original motion, it will do exactly that, it will stop another cross-examination, it will completely

eliminate this whole problem and it will explain, I believe, in some - with some clarity, why this original motion was - was....

5 THE COURT: Well, again, you want to argue the main motion. Again, and let me just....

MR. RANCOURT: Well, I'm saying that it's *prima facie*, like it should be - it will be clear that it is violating on the two main points of the motion that are being requested. It directly violates two rules of procedure.

10 THE COURT: All right. Mr. Rancourt, let's say - because that is your - that's going to be your answer to Mr. Dearden's motion to have mandatory mediation...

15 MR. RANCOURT: That - that....

THE COURT: That's going to be your...

MR. RANCOURT: One answer, yes.

20 THE COURT: ...answer, all right. If you are right and a Court ultimately agrees with you, you're going to be entitled to all your costs.

MR. RANCOURT: I was only trying to save the Court....

25 THE COURT: Okay, no - so that's - that's how you'll be - that's where you'll be made whole...

MR. RANCOURT: Yes.

30 THE COURT: ...if you're right. Okay. But right now, you're in - you're midstream, you're midstream here. In response to his motion you filed material, the law provides that when you file material, there's an absolute right to cross-examine on that material and the cross-examination was frustrated, Master McLeod found, and has ordered that certain

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other answers be given, and that - and so - that declaration of law must be adhered to before the main motion can be argued, that's the point of this morning's adjournment. It's premature to hear the motion in the absence of those cross-examinations being completed. I understand your argument, you're saying they're all irrelevant, we could really just argue this on - on a reading of the rule. But that's not the way its proceeded, it is proceeded on the basis of you filing material. And once you've taken that step, the other side has this right to cross-examine and have the full record before the Court. At the end of the day, a judge may say, "You know what, it's all irrelevant that stuff, I agree on its face, you know, Mr. Rancourt is right and should be entitled to all his costs." But that's at the end of the day. This ain't that day.

MR. RANCOURT: Yes. Your Honour, I'd just like to make one more...

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THE COURT: Yes.

MR. RANCOURT: ...comment. In the ruling of yesterday, the - the Master in paragraph nine said,

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"The issue before me is whether or not the questions must be answered in relation to the evidence that the defendant himself has tendered in response to that motion. Obviously if the judge dismisses the main motion, without the need to consider the affidavit evidence or the cross-examination, that decision may render any order I make today moot. In that event perhaps a judge will stay the order and relieve the defendant from providing the answers."

THE COURT: Uh-hmm.

MR. RANCOURT: So the - in yesterday's proceedings, I attempted to make this same argument, that it was so obvious that this original motion was ill conceived, that I should be allowed to make that argument and for the Master to rule on it, and the Master instead said "Well, that's precisely the argument you'll be able to make tomorrow." And so since we can make it tomorrow....

MR. RANCOURT: Sorry, sorry, I object, Your Honour, Master McLeod never said any such thing.

MR. RANCOURT: Well, he did say something similar...

THE COURT: Well....

MR. RANCOURT: ...to that, I may not have the exact words.

THE COURT: What he's leaving open - what he's leaving open is the possibility that a judge today, he didn't know who the judge would be, but the judge today might - might be persuaded by your - your argument and hear the main motion. That's what he's holding open.

MR. RANCOURT: Yes.

THE COURT: But I guess you drew the wrong judge, Mr. Rancourt, because I'm not going to hear the main motion.

MR. RANCOURT: Now....

THE COURT: All right. I don't know how many ways I can tell you that, but it would be inappropriate and I think unjust to all the parties and to the - to the search for the truth, which - which really this is all about, to simply cut all this short, forget the right that's been given to them to complete their cross-examinations, get other answers and just

say "No, we're going to hear it." That would be wrong I think.

MR. RANCOURT: Yes. Your Honour, I hear your ruling and I understand it, and I authentically wanted to present this position as a possibility and I did and I want to thank you for that opportunity.

THE COURT: Thanks, Mr. Rancourt. So the first endorsement I'll make - and you can - you can be seated, Mr. Rancourt. But with respect to the motion record, the plaintiff - I think December 1st was the date that was convenient to - is that convenient to you, Mr. Rancourt, for the main motion to be argued?

MR. RANCOURT: If I may, Your Honour, I'd like to point out that with regards to dates and times - estimated times of the procedures and this form that needs to be filed before motions and so on, I've never been consulted and the forms have been filed by Mr. Dearden unilaterally at the last minute....

THE COURT: All right. Why don't I just say on a date to be agreed to by the parties or....

MR. DEARDEN: Now, Your Honour, what you just heard isn't correct, but....

MR. RANCOURT: It is correct.

MR. DEARDEN: As you know, when we - when - resources over here are limited and we - that's for a two hour slot that was available, it was the earliest date that we could get. If Mr. Rancourt has ever wanted to have a different date, all he needs to do is call me up, but we have to book the slot and that was two hours, and my concern here, Your Honour, is two hours, in light of what I witnessed yesterday....

THE COURT: You'll need a lot more time.

MR. DEARDEN: Yes. But there is some urgency to this, Your Honour. I mean there's no doubt that this should be argued in a day and Mr. Rancourt should simply be told, "Look, you've got three hours. Mr. Dearden has three hours. But this can be argued in a day." It doesn't need to eat up anymore Court time than that. But there is urgency in this, Your Honour, that's been delayed by what came in in opposition - his evidence and what happened at the crosses in that - this is weighing heavily on the plaintiff and she wants to give this one good shot at settlement and that's why she wants mandatory mediation, not examination for discovery where there will be - no doubt we'll be back before the Master a number of times, so there is urgency and - but that was the earliest two hour slot we could get, Your Honour, and I don't know what a special appointment would be, you know, for a day - I don't know what the calendar looks like.

THE COURT: Perhaps the registrar can find some dates, but in the meantime I'll just endorse the....

MR. DEARDEN: If you could, because I - you can see that we'll be going back and forth, Your Honour, as to what isn't good or bad, and I just would like if we could resolve the date today.

REGISTRAR OF THE COURT: For a full day?

MR. DEARDEN: Full - if His Honour agrees that....

THE COURT: Yes, I think it needs a day. I mean you took a whole day yesterday just to argue that other stuff.

MR. DEARDEN: Yes, I did mine in 20 minutes.

MR. RANCOURT: That's not correct.

MR. DEARDEN: Read Master McLeod's decision, Mr. Rancourt.

REGISTRAR OF THE COURT: January 24th, 26th or 27th is available full day.

MR. RANCOURT: Sorry, 24....

REGISTRAR OF THE COURT: 24th or the 26th or the 27th.

MR. DEARDEN: There's nothing earlier?

REGISTRAR OF THE COURT: For a full day.

MR. DEARDEN: Is there anything you can do about that, Your Honour?

THE COURT: Is there any way that this could be expedited?

REGISTRAR OF THE COURT: Let me call somebody else that would be able to do that.

MR. RANCOURT: These dates conflict with an arbitration hearing that I must attend.

THE COURT: Yes. I think it should be heard earlier than that in any event, Mr. Rancourt. We should try to get this on quicker than later. Do you agree that it should be heard quicker rather than later, I mean just putting this off and off is not in anyone's interest?

MR. RANCOURT: Well, I agree.

THE COURT: Yes, okay.

MR. RANCOURT: Yes.

THE COURT: We're going to try and get an expedited day.

REGISTRAR OF THE COURT: But the month of December is agreeable?

MR. DEARDEN: The month of November is agreeable.

THE COURT: Anything in November?

REGISTRAR OF THE COURT: November 15th.

MR. DEARDEN: Yes.

THE COURT: November 15th, Mr. Rancourt.

MR. RANCOURT: I'm - yes, I'm concerned about this new cross-examination which will occur on October 14th. I'm hoping that it will not be expanded into other things.

THE COURT: Well, it will be done October - it's in a month in advance to the main motion, so that - lots of time to get a transcript and prepare argument, file factums, which is what will have to be done.

MR. RANCOURT: Yes. So that was my concern, and the date is?

THE COURT: November 15th.

MR. RANCOURT: All day November 15th.

THE COURT: Yes.

MR. RANCOURT: Yes, that works for me.

THE COURT: Good.

REGISTRAR OF THE COURT: At 10:00 a.m.

MR. DEARDEN: Do we know who? Do they know who?

REGISTRAR OF THE COURT: No.

MR. RANCOURT: Originally, the earliest date we could do it was December 1st.

THE COURT: No.

MR. DEARDEN: No, that the Court was available.

THE COURT: Yes. What he's saying - when you phone the trial coordinator's office and say when could we get - when is the next available motion date, he was given December 1st, okay - what we've done is intervene, in other words, I as a judge can intervene and say "This is an important matter, we

need a day, just get it for us." So they've done that.

MR. RANCOURT: Okay.

THE COURT: Sort of like bumping someone in a hospital bed, you know.

MR. RANCOURT: Okay.

THE COURT: All right. Here's what I've noted on the back of the main motion record,

"This motion cannot be heard today because of the order of case management Master McLeod made yesterday, which entitles the plaintiff to complete cross-examinations of affidavit evidence filed by the defendant in this motion. The motion shall be rather lengthy, judging by the history of this case. One day should be set aside for argument. A peremptory date of November 15th, 2011 is scheduled, commencing at 10:00 a.m."

MR. DEARDEN: So Your Honour, the second matter is the motion to set aside the notice of examination for discovery that was recently served on the plaintiff. If I could take you to tab four of the compendium, just so you see how this evolved. So you have the August 18th motion for mandatory mediation, which seeks relief of prior to the conduct of examinations for discovery. You know that it was returnable September 2nd, you know that the defendant consented to that, you know that the cross-examinations occurred September 6th and we know that a refusal's motion - which is - you have at tab six of the compendium, was - was served and filed September 22nd. So he knew all of this - and